

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD J. NICHOLAS,

Petitioner,

v.

SCOTT A. EVANS,

Respondent.

Civil Action No. 07-82 Erie

MEMORANDUM ORDER

Petitioner's Motion for Leave to Proceed *In Forma Pauperis* and Application for Writ [1] were received by the Clerk of Court on April 24, 2007 and were referred to Chief United States Magistrate Judge Susan Paradise Baxter in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. On May 2, 2007, the Chief Magistrate Judge directed the Clerk of Court to send Petitioner the proper form required for filing a habeas petition and ordered Petitioner to file the form with the Clerk within ten (10) days from the date of the Order [2]. On June 11, 2007, the Chief Magistrate Judge ordered that a copy of the proper form again be sent to Petitioner and that Petitioner complete the form and return it to the Clerk of Courts on or June 21, 2007 [3]. The June 11, 2007 Order notified Petitioner that failure to comply with this deadline would result in a Report and Recommendation that the case be dismissed for failure to prosecute.

The Chief Magistrate Judge's Report and Recommendation, filed on September 10, 2007 [4], notes that Petitioner has failed to comply with her previous two orders and recommends that the case be dismissed for failure to prosecute. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at his address of record. Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation, nor has he ever completed and filed the forms required for habeas corpus relief. After de novo review of the petition and documents in the case, together with the Report and

Recommendation, the following order is entered:

AND NOW, this 2nd day of October, 2007;

IT IS HEREBY ORDERED that the above-captioned case is DISMISSED for failure to prosecute.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on September 10, 2007 [4] is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge